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January 18, 2008

Honorable Joseph F. Bianco,
United States District Court Judge
100 Federal Plaza
Central Islip, New York 11722

Re: George Simpson v. Town of Southampton
Index No. 06-6743
Defendants' withdrawal of his complaint
and first amended complaint

Dear Judge Bianco:

This firm represents all of the defendants in the above referenced matter. Plaintiff pro se, has commenced suit against the Town of Southampton and eleven of its public officers in their official and individual capacities alleging civil rights violations as a result of the Town's denial of his Freedom of Information ("FOIL") requests. The defendants previously moved for dismissal of plaintiff's first amended complaint, and this Court granted the motion in part and denied the motion with regard to the plaintiff's equal protection claim. This Court also granted the plaintiff the ability to replead his First Amendment, conspiracy, antitrust, and state law defamation claims within thirty days.

The plaintiff has since, and on the thirty-first day, served and filed a second amended complaint. This complaint contained the identical FOIL, due process, conspiracy and defamation claims. The defendants again brought a motion to dismiss which is pending.

We are in receipt of plaintiff's "voluntary withdrawal of his first amended complaint". In light of the fact that this is by a pro se plaintiff, the document raises several issues which must be addressed. For instance, is there still a pleading and motion pending since plaintiff filed and served a second amended complaint. Is this withdrawal with prejudice? Or is the plaintiff simply attempting to circumvent the defendants' arguments raised in the pending motion to dismiss?

Because of these outstanding issues, it is respectfully requested that this Court schedule a conference so that the plaintiff may advise on the record as to what in fact he is withdrawing and whether he is aware of the effects thereof. In this way, the defendants can make a knowledgeable decision and enter into a stipulation of discontinuance with prejudice.

This letter has been served upon the plaintiff by mail. Thank you for your attention to this matter.

Very truly yours,

DEVITT SPELLMAN BARRETT, LLP

/S/

Jeltje deJong (JD/4452)

Cc: George R. Simpson
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